



**RHODE ISLAND  
ADVISORY  
COMMISSION  
ON HISTORICAL  
CEMETERIES**

# **Caring for the Permanent Rhode Island Residents**

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## To Whom It May Concern:

Enclosed is the most up-to-date information on Rhode Island Cemeteries. Please make this material available to the public, and photocopy and distribute to any and all parties who are interested in aiding the completion of the Survey of Rhode Island Historical Burial Grounds.

Included are: 1) state laws regarding Historical Cemeteries, 2) list of Rhode Island Cemetery Commissioners, 3) Do's and Don'ts of cemetery cleaning, 4) liability forms for both the landowner and the volunteer who will be cleaning, 5) cemetery form (in three sheets), and 6) city or town specific information. This packet is being made available to law enforcement and public agencies statewide.

Through the efforts of our Commission, legislation may be introduced that will amend the current state laws in the near future. Notification will then be forthcoming and can be affixed to these pages.

Commission members may be contacted at any time concerning burial grounds. **If one of the Commissioners is from your area, please refer calls to that person if possible.**

The Do's and Don'ts of cemetery cleaning should be made available to persons attempting to tidy up local burial grounds. Well-meaning individuals or groups frequently start to clean a cemetery without realizing the problems they may inadvertently create. These suggestions may avert further deterioration of these final resting places.

The three-sheet cemetery form is designed to record names, dates and historical data from all stones in all burial grounds, identify, and accurately locate every cemetery so that they are not destroyed by housing starts, sand and gravel operations, road expansions, etc. The completed forms must be returned to the Cemetery Commission c/o Evelyn Wheeler, 29 South Pier Rd., B107, Narragansett, RI 02882. The information therein will be placed on computer and will be available to historians and genealogist as well as local law enforcement and governmental commissions.

Since vital records are often incomplete, the inscriptions on these stones may be the only record in existence. The data is considered primary historical information. It can unfortunately be lost forever in one careless instant. We are thus requesting the cooperation and assistance of all local agencies to disseminate information to interested parties and encourage the completion of this important historic survey. Additional copies will be sent to Town Planners, Tax Assessors, Historical Societies, Libraries, Police Departments and local Cemetery Commissions.

Evelyn L Wheeler Chair  
Rhode Island Advisory Commission on Historical Cemeteries

**TITLE 23**  
**Health and Safety**  
**CHAPTER 23-18.3**  
**Advisory Commission on Historical Cemeteries**

**SECTION 23-18.3.1**

**§ 23-18.3.1 Establishment – Purpose – Membership – Compensation.** – (a) There is created a permanent advisory commission to study the location, condition, and inventory of historical cemeteries in Rhode Island and to make recommendations to the general assembly relative to historical cemeteries in Rhode Island.

- (b) The commission shall consist of fourteen (14) members all of whom shall be citizens and residents of this state. One shall be the director of veteran's cemeteries or his or her designee.
- (c) One shall be the director of the Rhode Island historical preservation commission or his or her designee.
- (d) One shall be the director of the Rhode Island Historical Society or his or her designee.
- (e) One representative of the League of Cities and Towns to be appointed by the governor who shall serve for one year.
- (f) The governor, in consultation with and upon the recommendation of local historical or preservation societies within each county, shall appoint (10) members of the general public consisting of two (2) representatives from each county.
- (g) The members all annually elect a chairperson of the commission. Any vacancy shall be filled by authority making the original appointment. Members of the commission shall service without compensation.

(h)

**§ 23-18.3.2 Quorum.** – Eleven (11) members of the commission shall constitute a quorum for the transaction of any business. The Speaker of the house shall make available suitable quarters for the commission meetings. Meetings may be called upon reasonable notice by the chairperson.

**§ 23-18.3.3 Rules and Regulations.** – The commission shall adopt reasonable rules and regulations in compliance with the open meetings law governing its operations and procedure to carry out the purposes of this chapter.

# **THE “DO’S AND DON’TS” OF CEMETERY CLEANING**

## **GETTING THERE:**

Do seek permission from abutting property owner to pass through their land. Ask where to park the car to be out of their way. Your consideration on their behalf may net you some cooperation (and may be even some help) from them. Respect their land and their wishes. Leave no refuse on their property. If you pass through closed gates, re-close them. Always leave everything on abutting property as you find it, or better.

## **STONES:**

DO NOT move gravestones. If they appear to be out of place, draw a map showing the location of the stone. Indicate by arrow where the stones should be (if known). List names and dates. Slate and small marble stones that are broken off and out of place are in jeopardy of theft. Please list ALL information that appears on the stone. Call Commissioner of that county. See list in this packet.

## **LIVING TREES:**

DO NOT cut large living trees in burial grounds, even when they are engulfing a stone. In such a case, the best method is to photograph and record all visible information on the stone. Felling large trees endangers other stones and opens the area to sunlight, which encourages rapid second growth, such as briars, sumac and poison ivy. The large trees provide shade and thereby inhibit undesirable growth from overrunning the cemetery.

## **FALLEN TREES:**

DO NOT drag large trees across gravestones. Get help to carefully lift away from the stones. Large branches should be cut into sections and carried away. While chain saws are not recommended as standard equipment in an old burial ground, it may be the only tool effective in removing very large fallen trees. Remember, stone may be underneath and nails and wire in old trees will quickly dull a chain. Every precaution must be taken to protect the gravestone.

## **BRUSH AND SAPLINGS:**

DO cut unwanted saplings selectively. Cutting during October 15<sup>th</sup> thru January 15<sup>th</sup> a normally dormant period will permanently get rid of the saplings. A gasoline powered brush cutter may simplify the job, cut if it is used near the gravestones, it is best to protect the gravestone.

## **FALLEN BRANCHES, LEAVES AND RUBBISH:**

DO place all leaves and small branches in yard debris bags if possible, as these are recyclable. If possible take with you or make arrangements **ahead** for someone to take such as DPW, Parks and Recreation, or your Conservation Commission.

## **RAKING:**

DO rake with a bamboo or wire rake. Rake lightly as soil in old burial grounds may contain rare and endangered wild flowers. Heavy raking may scratch up and kill sensitive growth that may be desirable. Rake gently around the grave markers.

## **WALLS, FENCES AND GATES:**

DO treat these with care and respect. Replace stonewall stones where they have rolled away and mend or restore fences and gates where necessary.

## **TOMBS:**

DO make note if there is damage to the gate or door. If open remove all rubbish.

**GRAVESTONE RUBBING:**

DO NOT do gravestone rubbing as it is not recommended except under expert supervision. Do take photos using a mirror to direct sunlight.

**PHOTOGRAPHY:**

DO take “before and after” photos. DO record date, cemetery location and direction photo was taken.

**SUGGESTED TOOLS:**

Yard debris bags  
Plastic garbage bags  
Rakes  
String or rope for bundling  
Log carrier  
Hand held grass clippers  
Hatchet  
Gloves  
Brush cutter  
First aid kit  
Weed whacker  
Water bottle  
Pruning saw  
Camera  
Pruning shears  
Notebook and pencil  
Chain saw to cut fallen trees only

Sheet metal or plywood to protect stones when using power tools

**SAFETY:**

DO wear gloves; preferably leather ones, when handling vines and roots. Be aware that ALL parts of poison ivy, oak and sumac are poisonous even in their dormant period. Wear safety glasses when using power equipment. Spray for Deer Ticks and use rubbing alcohol to wipe everything if there was poison ivy.

**REVISIT:**

DO go back in the Fall to cut those unwanted saplings. A follow up visit the next year to check on the straggler will insure that the cleanup was a success and you can be proud.

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# **Historic Cemetery Commission**

## **Adopt a Cemetery**

### **Request for Information**

I am interested in adopting the following Cemetery and would like more information on the program.

Name \_\_\_\_\_ Date \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Phone \_\_\_\_\_ E Mail \_\_\_\_\_  
Organization \_\_\_\_\_  
\_\_\_\_\_

If you have no particular cemetery in mind, please identify the location in which you have an interest \_\_\_\_\_  
\_\_\_\_\_

The adoptee does not take ownership of the property but simply agrees to clean and preserve the area. No changes to the cemetery may be made without prior written agreement from the Historical Cemetery Commission. Any further questions contact me or your local RIACHC commissioner.

Evelyn Wheeler, Chair  
29 South Pier Rd B 107  
Narragansett, RI 02882  
401-789-3503 [eviehee@verizon.ent](mailto:eviehee@verizon.ent)

# Property Owners Permission

I \_\_\_\_\_ give permission for Volunteer/Town Employees to cross my property to reach Historical Cemetery #\_\_\_\_\_ to clean it up.

I understand I am exempt from any liability to the “clean up crew”.

23-18-10.2(b) A private owner landowner permitting access over his or her property to a historical cemetery for the purpose of voluntary maintenance or repair to the cemetery shall not behold civilly liable for any breach of duty resulting in injury to the person or damage to the property of those seeking to repair or maintain the cemetery.

I have special instructions (example: no heavy trucks on grass):

**Signed** \_\_\_\_\_  
**Address** \_\_\_\_\_  
\_\_\_\_\_  
**Phone** \_\_\_\_\_  
**Dated** \_\_\_\_\_

**For more information contact:**

**Evelyn Wheeler**  
**29 South Pier Rd B-107**  
**Narragansett, RI 02882**  
**401-789-3503**  
**[Eviewhee@verizon.net](mailto:Eviewhee@verizon.net)**



# Volunteer Permission Slip

I/We \_\_\_\_\_ volunteer to clean \_\_\_\_\_  
Historical Cemetery #\_\_\_\_\_.

I/We will be most careful with the stones. I promise to abide by the land owners/abutters requests. I/we will check in with RIACHC if there is a problem and also to keep them informed of what I am doing, i.e. how much is being done or a tree that needs taken down. I/we also will not dig up earth or remove any stones even if they look like “just stones”. I/we will leave those in place and notify RIACHC.

I have read Chapter 23-18 of the Health and Safety Ordinances of the State of RI regarding liability which is below.

**Signed** \_\_\_\_\_

**Dated** \_\_\_\_\_

**Address** \_\_\_\_\_

**Phone #** \_\_\_\_\_

**Email** \_\_\_\_\_

For more information contact:

RIACHC

C/o Evelyn Wheeler

29 South Pier Rd B 107

Narragansett, RI 02882

401-789-3503

[eviewhee@verizon.net](mailto:eviewhee@verizon.net)

Title 23

Chapter 23-18

Cemeteries

23-18-10-2 Exemption from liability. (A) city, town or public body shall not be held civilly liable for any breach of duty resulting in injury to the person or damage to the property or any person who voluntarily and without compensation, undertakes to maintain or to repair any designated historical cemetery pursuant to Chapter 23-18-10-1, provided that nothing in this section shall eliminate or limit the liability of a city, town or public body:

(1) For acts or omissions not in good faith which involve intentional misconduct or a knowing violation of law; or

(2) For any malicious, willful, or wanton act.

# Cemetery Inspection Report

TOWN OF \_\_\_\_\_ CEMETERY # \_\_\_\_\_  
OTHER, IF \_\_\_\_\_

ANY \_\_\_\_\_  
NAME OF CEMETERY (If any) \_\_\_\_\_  
\_\_\_\_\_

NEAREST ROAD \_\_\_\_\_

DIRECTION OF CEMETERY FROM NEAREST ROAD \_\_\_\_\_  
APPROXIMATE DISTANCE \_\_\_\_\_

NEAREST TELEPHONE POLE# \_\_\_\_\_ TAX ASSESSOR MAP# \_\_\_\_\_ PLAT# \_\_\_\_\_  
LOT# \_\_\_\_\_

NAME & ADDRESS OF ABUTTING PROPERTY OWNER (s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEED BOOK # \_\_\_\_\_ PAGE# \_\_\_\_\_ SURVEY MAPS? \_\_\_\_\_  
GPS \_\_\_\_\_

SIZE OF CEMETERY \_\_\_\_\_ X \_\_\_\_\_ NUMBER OF INSCRIBED HEADSTONES \_\_\_\_\_

NUMBER OF FIELDSTONE MARKED GRAVES \_\_\_\_\_ TOTAL NUMBER OF BURIALS \_\_\_\_\_

TOMB? \_\_\_\_\_

## DESCRIPTION OF LOCATION:

Terrain-flat \_\_\_\_\_ hilly \_\_\_\_\_ slope \_\_\_\_\_ hilltop \_\_\_\_\_ marsh or swamp \_\_\_\_\_  
Growth mature woods \_\_\_\_\_ dense second growth \_\_\_\_\_ low growth \_\_\_\_\_  
Pasture \_\_\_\_\_ field \_\_\_\_\_ lawn \_\_\_\_\_ sand and gravel \_\_\_\_\_ other \_\_\_\_\_  
(Identify if possible) \_\_\_\_\_  
Land marks Rock outcroppings \_\_\_\_\_ other \_\_\_\_\_

## DESCRIPTION OF ENCLOSURE:

Stonewall \_\_\_\_\_ rail fence \_\_\_\_\_ granite posts \_\_\_\_\_ granite blocks \_\_\_\_\_  
Other \_\_\_\_\_ none \_\_\_\_\_

## DESCRIPTION OF GATEWAY:

Opening, no gate \_\_\_\_\_ opening, gate removed \_\_\_\_\_ hinged iron gate \_\_\_\_\_  
Wooden gate \_\_\_\_\_ removable iron rails \_\_\_\_\_ opening, granite post in  
Center \_\_\_\_\_ steps \_\_\_\_\_ other \_\_\_\_\_

## CONDITION OF CEMETERY:

Perpetual care \_\_\_\_\_ occasionally mowed \_\_\_\_\_ brush removed \_\_\_\_\_  
Overgrown \_\_\_\_\_ fallen trees \_\_\_\_\_ dense undergrowth \_\_\_\_\_ shade  
Inhibits low growth \_\_\_\_\_ poison ivy or briar \_\_\_\_\_

SIGNS OF MISUSE OR VANDALISM (describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IF KNOWN PLEASE STATE HISTORY OR FOLKLORE OF BURIAL GROUND OR SPECIFIC MONUMENTS WITHIN THE CEMETERY THAT DRAW YOUR ATTENTION, i.e. family pet, Indian princess etc.

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COMPLETION DATE OF SURVEY:

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NAME OF PERSON (S) RECORDING DATE:

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ADDRESS:

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PHONE #

---

EMAIL

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Map on page 12 (use North arrow, and draw in road) Add extra page(s) if needed. Key numbers used in List of Burials to location of graves on map. Use F to designate fieldstone burial site.

LIST OF BURIALS on page 12 & 13

Condition of each stone may be indicated in margin with individual burial listing;

Composition: S-slate, M-marble, G-granite, B-bronze, W-wood,  
F-fieldstone, SS-sandstone

State: U-up, D-down, B-broken, R-repaired

Legibility: G-good, F-fair, P-poor

Please make note of special inscriptions when they may indicate history of subject.

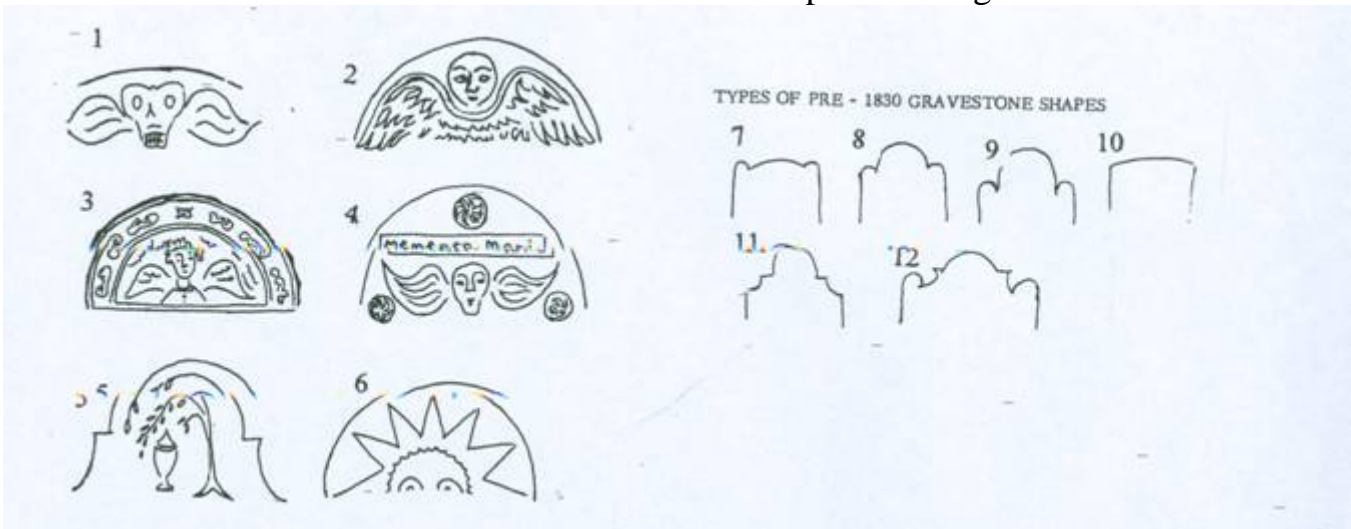
Location of Cemetery: \_\_\_\_\_

## DESCRIPTION OF STONES

Stonecutter's name if found \_\_\_\_\_

Material:     slate \_\_\_\_\_ marble \_\_\_\_\_ fieldstone \_\_\_\_\_ wood \_\_\_\_\_  
                  Sandstone \_\_\_\_\_ granite \_\_\_\_\_ bronze \_\_\_\_\_ other \_\_\_\_\_

Use these numbers that coincide with stone shape and design.



Tombstone Inscription	Tombstone Description
	Headstone: Footstone: Artwork: Grave Decorations:
	Headstone: Footstone: Artwork: Grave Decorations:
	Headstone: Footstone: Artwork: Grave Decorations:

## MAP OF CEMETERY    Part A & B

### Part A

Use North Arrow

Example

8       7  
  
6      5   4   3  
  
2      1

### Part B   List of Burials

Use V for Veterans

Fill in religion if known

- |                            |             |         |
|----------------------------|-------------|---------|
| 1. John Smith              | b. 1720     | d. 1800 |
| 2. Sarah Smith             | b. 1730     | d. 1820 |
| 3. John Greene             | (v) b. 1650 | d. 1730 |
| 4. Tom Hazard              | (v) b. 1760 | d. 1820 |
| 5. Unreadable              |             |         |
| 6. Unreadable              |             |         |
| 7. Un inscribed fieldstone |             |         |
| 8. Rev Able Cain (Quaker)  | b. 1690     | d. 1776 |

**LIST OF BURIALS**  
**Part B continued if needed**

Use V for Veteran  
Fill in religion if known

[illegible]

**TITLE 23**  
**Health and Safety**  
**CHAPTER 23-18**  
**Cemeteries**

**SECTION 23-18-1**

**§23-18-1 Definitions.** – The following terms used in this chapter, unless the context indicates otherwise, have the following meanings:

- (1) “Agencies” mean town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, or any person, firm, corporation, or unincorporated association previously or hereafter engaged in the business of conducting a cemetery or operating a community mausoleum or columbarium.
- (2) “Columbarium” means a structure or room, or other space in a building or structure of durable or lasting fireproof construction, containing niches, used, or intended to be used, to contain cremated human remains.
- (3) “Community mausoleum” means a structure or building of durable or lasting construction, used or intended to be used, for the permanent disposition of crypts or spaces therein of the remains of deceased persons, provided the crypts or spaces and their use are available to or may be obtained by individuals for a price in money or other form of security.
- (4) “Crypt” means the chamber in a mausoleum of sufficient size to contain the remains of a deceased person.
- (5) “Historic cemetery” means any tract of land which has been for more than one hundred (100) years used as a burial place, whether or not marked with an historic marker, including, but not limited to ancient burial places known or suspected to contain the remains of one or more American Indians.
- (6) “Niche” means a recess in a columbarium or other structure, used, or intended to be used, for the permanent disposition of the cremated remains of one or more deceased persons.

**§23-18-2 Location of mausoleums and columbaria.** – Every community mausoleum, other than structures containing crypts erected or controlled by churches and religious societies, and every columbarium, or other similar structure intended to hold or contain the bodies or remains of the dead, the spaces, crypts, or niches of which are available to the public, shall be located only within the confines of an established cemetery.

**§23-18-8.3 Maintenance of perpetual care funds.** - The corpus or principal of perpetual care funds shall be maintained intact, and shall not be expended to pay for perpetual care or any other expenses, but the income and other earnings on the corpus or principal of perpetual care funds may be so expended.

**§23-18-9 Penalty for violations.** – Any person, member of a firm, or any officer or director of a corporation, failing to comply with any of the provisions of this chapter, upon each and every conviction of any of the provisions of this chapter, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not less than sixty (60) days nor more than six (6) months, or by both fine and imprisonment.

**§23-18-10 City and town regulation of burial grounds.** – (a) The city or town council of any city or town may prohibit burials in the compact or thickly-populated parts of the city or town, and may make

any bylaws and ordinances relating to burials and the use of grounds for burials in the city or town that it may think necessary for preserving the health of the city or town, and as necessary to carry out the provisions of this chapter, and may enforce the ordinances in the manner provided in chapter 18 of this title.

1. (b) The town councils of the towns of East Greenwich and Smithfield and the city councils of the cities of East Providence, Warwick, Cranston, Woonsocket, after having prevented further burials in those parts of their towns or cities as provided in subsection (a), may order in accordance with this chapter, the owner of the burial ground so prohibited, and in the interest of public welfare, to cause to be removed the cadavers or remains of any persons buried in the burial ground, and transferred to and interred in some other cemetery within the state, the removal and interment to be under the direction of a qualified funeral director and with the approval of the nearest of kin of the deceased and at the expense of the owner of the land.

(c) No cadaver or remains shall be removed unless the owner of the land shall give notice by certified mail to the nearest of kin known to him or her, and by advertising in one or more daily newspapers having circulation within the town or city at least once a week for three (3) successive weeks. In the event there shall be no nearest of kin known to the owner of that the nearest of kin shall neglect or refuse to approve the removal and interment, the city or town shall cause the cadavers or remains to be removed, transferred, and interred in any other cemetery in accordance with the laws, rules and regulations of the religious denomination, if any shall be known or ascertained, to which the deceased subscribed.

**§23-18-8.1 Perpetual care funds.** – (a) All funds paid to or held by an agency for the purpose of funding the perpetual care of cemetery lots, crypts, or niches shall be maintained in a separate perpetual care fund, and shall not be commingled with any other funds of the agency; and

1. (b) Not less than twenty percent (20%) of the sale price of a cemetery lot, crypt, or niche sold with perpetual care shall be deposited by the agency in the perpetual care fund.

**§23-18-10.1 Registering historical cemeteries.** – In addition to the records and indexes now required to be maintained by every recorder of deeds in all cities and town, the recorder of deeds in every city and town shall record with an appropriate symbol all historical cemeteries located within the city or town, and shall register these historical cemeteries on an official tax plat or similar instrument used by that city or town to record all plats or parcels of land. The symbol shall be established by the Rhode Island cemeteries program.

**§23-18-10.2 Exemption from liability.** – (a) A city or town, or public body shall not be held civilly liable for any breach of duty resulting in injury to the person or damage to the property or any person who voluntarily and without compensation, undertakes to maintain or to repair any designated historical cemetery pursuant to §23-18-10.1, provided that nothing in this section shall eliminate or limit the liability of a city, town or public body:

- (1) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law: or
  - (2) For any malicious, willful, or wanton act.
- (b) A private landowner permitting access over his or her property to a historical cemetery for the purpose of voluntary maintenance or repair of the cemetery shall not be held civilly liable for any breach of duty resulting in injury to the person or damage to the property of those seeking to repair or main the cemetery.

**§23-18-11 Regulation of excavation around cemeteries.** – (a) The city or town council of any municipality may by ordinance prescribe standards regulating any construction or excavation in the city or town, when those standards are reasonably necessary to prevent deterioration of or damage to any cemetery or burial ground, or to any structures or gravesites located in any cemetery or burial ground.



The rules and regulations shall not apply to the ordinary installation of gravesites or of monuments, markers, or mausoleums.

(b) No city or town shall permit construction, excavation or other ground disturbing activity within twenty-five feet (25ft) of a recorded historic cemetery except in compliance with the following provisions:

(1) The boundaries of the cemetery are adequately documented and there is no reason to believe additional graves exist outside the recorded cemetery and the proposed construction or excavation activity will not damage or destructively alter the historic cemetery through erosion, flooding, filling, or encroachment; or

(2) The proposed construction or excavation activity has been reviewed and approved by the city or town in accordance with § 23-28-11.1.

(c) Whenever an unmarked cemetery or human skeletal material is inadvertently located during any construction, excavation, or other ground disturbing activity, including archaeological excavation, the building official of the city or town where the unmarked cemetery or human skeletal material is located shall be immediately notified. The building official shall, in turn, notify the state medical examiner and the Rhode Island historic preservation commission if the grave, cemetery, or skeletal material appears to be historic. Prior to the continuation of any further construction, excavation, or other ground disturbing activity, and unless the provisions of § 23-18-7 shall apply; the property owner shall undertake an archaeological investigation to determine the boundaries of the unmarked cemetery and shall so inform the building official. In the event that the cemetery meets the criteria for a historic cemetery, the building official shall so advise the recorder of deeds of the city or town who shall record and register the cemetery in accordance with the provisions of § 23-18-10.1.

**§23-18-11.1 Permit required to alter or remove historic cemetery – Powers of city or town council –**

**Appeal.** – (a) Before an agency or a property owner may authorize or commence alteration or removal of any historic cemetery, the agency or owner must apply to the city or town council where the historic cemetery is located for a permit to alter or remove. The city or town council shall prescribe by ordinance standards to regulate the alteration or removal of any historic cemetery within its municipal limits, but shall at a minimum provide that:

(1) The applicant examines all alternatives, and demonstrates that no prudent or feasible alternative to the proposed alteration is possible;

(2) The city or town provide for notification and participation in the permitting process of parties which may be interested in the proposed alteration or removal by virtue of their status as a governmental health or historical preservation authority, or as a private nonprofit historical, genealogical or civic organization, or, in the case of American Indian cemeteries and burial grounds, the appropriate tribal organizations; and

(b) When an application for alteration or removal of a historic cemetery has been made and the boundary is unknown or in doubt, the city or town may require that the applicant, at its own expense, conduct an archaeological investigation to determine the actual size of the cemetery prior to final consideration by the city or town of the application to alter or remove.

(c) After due consideration, the city or town council may grant the application to alter or remove the historic cemetery in whole or in part, under the supervision of an archaeologist and with any restrictions and stipulations that it deems necessary to effectuate the purposes of this section, or deny the application in its entirety. Any person or persons aggrieved by a decision of the city or town council shall have the right of appeal concerning the decision of the superior court from the superior court to the Supreme Court by writ of certiorari.

(d) Nothing in this section shall be deemed to contravene the authority of municipal bodies under § 45-5-12 to hold, manage, repair, or maintain any neglected burial ground.

**§23-18-11.2 Regulation of excavation – Removal and transfer of graves and cemeteries – Penalties.**

– (a) The city or town council of any municipality may be ordinance prescribe standards, in addition to those required by § 23-18-10, regulating the excavation, removal, and transfer of any graves, grave sites, and cemeteries in the municipality so as to provide an accurate record of any activity and to insure that any remains removed are properly re-interred and the location of a new interment is recorded. In the absence of a local ordinance establishing standards, regulations adopted by the Advisory Commission on Historical Cemeteries (Chapter 18.3 of this title), after providing an opportunity for interested parties to be heard, shall govern. A report of any grave removal and relocation from one cemetery or burial ground to another shall be filed in the clerk's office for each municipality and shall, to the extent permitted by law, be available for public inspection. In instances where there is a headstone or other burial marker identifying the original grave, the headstone or burial marker shall be erected on the side to which any remains are transferred.

(b) To the extent not promulgated pursuant to § 23-3-5.1, the state registrar of vital records shall promulgate regulations to establish a system of record-keeping to allow descendants to locate their ancestors' graves in Rhode Island.

(c) Any person convicted of violating this section shall be subject to a fine of not more than two hundred-fifty dollars (\$250).

(d) The provisions of this section shall be considered to be in addition to any other penalties provided for desecration or vandalism to cemeteries.

**§23-18-12 Vandalism in cemetery – Civil penalties.** – Any person who shall be convicted of vandalism of cemetery property shall, in addition to any fine or penalty imposed by the court, pay treble damages to the agency who cemetery sustained the damage. In the even the convicted offender is a minor, the family court may, if it determines that the juvenile is unable to pay treble damages, require the offender to perform specified work at the cemetery site where the damage was sustained for a period of time that in the courts' opinion will equal treble the damages inflicted at the cemetery.

**§23-28-13 Notification of state archaeologist.** – The state archaeologist shall be notified whenever an ancient burial place contains or is suspected to contain the remains of one or more American Indians.

**§23-18-14 Records of Disposition.** – (a) "Agencies", as defined in §23-18-1, are responsible for the proper maintenance of all records of disposition of human remains, and all burials shall be accompanied with appropriate records or combination of records giving location and name of deceased, date of burial, record of property owner, and a geographic schematic indicating the specific location of final disposition. The agencies have the ability to cross reference his material as the agencies deem necessary as long as the records insure the accuracy and quality control of the location and name of the deceased.

(b) The agencies shall supply this information to the general public upon reasonable request.

## **CHAPTER 23-18.2**

### **Preservation and Care of Burial Places and Memorials for the Dead**

#### **SECTION 23-18.2-2**

**§23-18.2-2 Burial places to be preserved.** – No municipality shall alienate or appropriate any burial place to any use other than that of burial ground. No portion of any burial place shall be taken for public use without the approval of the general assembly. If any burial place is appropriated for any other use and the bodies buried in it or the monuments, gravestones, or other memorials marking the burial place are removed, the burial ground authority shall preserve a record of the removal indicating the date of the removal and the site or place to which the removal was made.

**§23-18.2-3 Removal of gravestones and memorials.** – No fence, tomb, monument, or gravestone or fragment of a gravestone within any cemetery or burial place shall be destroyed or injured or shall be removed except in accordance with the provisions of this section. Any gravestone or other memorial for the dead may be removed for the purpose of repair or replacement, reproduction, or preservation and display in an accredited museum upon:

(1) The consent of the owner of the burial lot in which the gravestone or memorial is placed or the consent of a lineal descendent of the deceased or, if the owner or lineal descendent is unknown, with the consent of the burial ground authority, and

(2) The order of the superior court for any county in which the burial lot is located. Upon written application of a consenting owner, lineal descendant, or burial ground authority, the court may, after a hearing, with notice of the hearing having been given to interested parties and otherwise as the court deems appropriate, order the removal of the gravestone or memorial, if it finds that removal is necessary or desirable for the protection and preservation of the gravestone or memorial.

**§23-18.2-4 Unlawful possession or sale of gravestone.** – A person is guilty of the unlawful possession or sale of gravestones when he or she possesses or sells, offers for sale or attempts to sell or transfers or disposes of any monument, gravestone, or other structure place or designed for a memorial of the dead, or any portion or fragment of a memorial of the dead, knowing that it has been unlawfully removed from a cemetery or burial ground.

**§23-18.2-5 Penalty for violation.** – (a) whoever violates the provisions of § 23-18.2-4 shall, upon conviction, be punished by imprisonment for not more than one year or by a fine of not more than five thousand dollars (\$5,000). (b) In addition to any other penalties imposed for a violation of the provisions of this chapter or chapter 20 of title 11, any person who topples or damages any marker, gravestone, crypt, or columbarium or who violates the provisions of § 23-18.2-4, shall be required to perform four (4) hours of public community restitution for each marker, gravestone, crypt, or columbarium toppled or damaged or obtained or sold in violation of § 23-18.2-4, at the location of the cemetery, mortuary or other facility where the desecration or other violation occurred and the public community restitution shall not be suspended

**§23-18.2-6 Civil penalties.** – Any person convicted under the provisions of § 23-18.2-5 or chapter 20 of title 11, shall, in addition to any fine or penalty imposed, pay treble damages to the burial ground authority, religious organization, cemetery corporation, or persons having charge of the burial ground where the damage has been sustained.

(b) If the convicted offender is a minor, the court may, if it determines that the offer is unable to pay treble damages, require the offender to perform a specified work program at the site where the damage occurred for a period of time that will in the opinion of the court equal treble the amount of damages sustained.

**§23-18.2-7 Community restitution.** – The general assembly declares that the words “public community service” which appear throughout this chapter shall now be substituted with and referred to as “public community restitution”.

## **CHAPTER 45-5**

### **Councils and Governing Bodies**

#### **SECTION 45-5-11**

**§45-5-11 Burial lands and funds.** – (a) Town councils may take and hold, to them and their successors in office, all lands within their towns, conveyed to them in trust for burial purposes and, in like manner, may receive, hold and manage all funds conveyed to them for the purpose of ornamenting or keeping in repair these burial lots within their town, and execute the trusts in accordance with the terms contained in the instruments of conveyance. Funds received, or already received, may be placed in a general burial lot fund and this fund may be invested in securities which are legal for investment of funds of savings banks in this state. The earnings of this fund shall be apportioned to the various individual trusts in the proportion each trust, including any un-disbursed earnings, bears in relation to the total of the general burial lot fund. Funds received or already received for the purpose of ornamenting or keeping in repair burial lots in town-owned cemeteries may be placed in a general burial lot fund, and this fund may be invested in securities which are legal for investment of funds of saving banks in this state. The earnings of this fund shall be apportioned to the individual trusts in the proportion that the principal of each trust bears in relation to the total principal in the general burial fund.

(b) Effective July 1, 1976, the town of Bristol shall not apportion the earned income of the fund, and it shall be used for maintenance of the entire burial ground.

(c) Effective July 1, 1979, the towns of Tiverton and Richmond shall not apportion the earned income of their respective funds, and it shall be used for maintenance of their entire burial grounds.

## TITLE 11

**§45-5-12 Neglected burial grounds.** – (a) Town councils may also take possession of and hold ancient, neglected, or abandoned burial grounds including historic cemeteries as defined in § 23-18-1(5), whenever they can take possession without opposition from the persons interested in those grounds. The councils may take, hold, and manage in trust all funds given to the councils to keep these grounds in repair or for ornamenting or improving these grounds, and may in their discretion appropriate from the treasury of their town money for the purpose of keeping in repair, preserving the monuments in, and maintaining any neglected burial ground.

(b) Any person interested in caring for burial ground described in subsection (a) which has not been maintained and the owner of which is unknown or whose present address is unknown, may petition the town council for permission to clean up and maintain that burial ground at the person's own expense. Upon approval of this petition on any conditions the council may deem appropriate, the council shall cause an advertisement to be placed in a local newspaper providing notice that the burial ground is to be entered and cleaned up and thereafter maintained, and notifying persons with a property interest in this burial ground who have objections to come forward by a date certain.

**Criminal Offenses**  
**CHAPTER 11-20**  
**Graves and Corpses**

**SECTION 11-20-2**

**§11-20-2 Desecration of grave.** – Every person who shall willfully and maliciously destroy, mutilate, deface, cover over, injure or remove any tomb, monument, gravestone, American Flag, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure like character and designed for that purposes, or of any enclosure for the sepulture of the dead, or dig or plow up, cultivate or build upon or within any enclosure or plot of ground used and occupied for the sepulture of the dead, or shall commit any nuisance in it, or wantonly disturb, remove, or in any way desecrate the contents of any grave in any enclosure or plot of ground, shall be guilty of a felony and shall be imprisoned not less than one year and not exceeding three (3) years, or be fined not more than three thousand dollars (\$3,000), or both.

**11-20-3 Removal of marker of veteran's grave.** – (a) Every person who maliciously or without authorization removed an American Flag in the vicinity of a veteran's grave or from a flag staff in a cemetery shall be imprisoned not exceeding sixty (60) days or fined not exceeding one hundred dollars (\$100).

(b) Every person who shall, without right, remove from any grave a marker that was authorized to be placed by the cemetery to designate that the grave was the grave of a deceased veteran shall be imprisoned not exceeding one hundred and twenty (120) days or fined not exceeding five hundred dollars (\$500) for the first offense, and shall be imprisoned not exceeding one hundred and twenty (120) days or fined not exceeding one thousand dollars (\$1,000) for a second offense.

(c) Every person, firm, partnership or corporation who shall purchase, sell or destroy any veteran's grave marker shall be subject to the same penalties provided in subsection (b) of this section.